

YEAR

19

Nonresident Withholding Waiver Request for Real Estate Sales

CALIFORNIA FORM

597-A

Please print or type

1 Name of seller/transferor (see instructions if more than one)		Seller's Entity type <input type="checkbox"/> Individual(s) <input type="checkbox"/> Corporation <input type="checkbox"/> S corporation <input type="checkbox"/> Estate <input type="checkbox"/> Trust	Seller's/Transferor's social security number (SSN)	
Seller/transferor's mailing address			<input type="checkbox"/> California corporation no. <input type="checkbox"/> FEIN	
City, state and ZIP Code (province, country and postal zone)			Seller's/Transferor's spouse's SSN (if applicable)	
Daytime telephone number ()	Ownership Percentage		Buyer's/Transferee's SSN	
2 Name of buyer/transferee (see instructions if more than one)				
Address (number and street including PO box or rural route)			<input type="checkbox"/> California corporation no. <input type="checkbox"/> FEIN	
City, state and ZIP Code (province, country and postal zone)			Buyer's/Transferee's spouse's SSN (if applicable)	
3 Name of escrow company		Name of escrow officer	Daytime telephone number ()	
Address (number and street)		Fax number ()		
City, state and ZIP Code				

4 Description of California real estate transaction:

a Property address (if no street address, provide parcel number and county)

Number and Street

City State ZIP Code

Parcel number (if no street address)

County

b Escrow number _____

c Date of close of escrow _____

d Contract price (total sales price) for the current property transfer

\$ _____

e Use of property at time of sale:

- ☐ Rental/commercial
☐ Secondary/vacation home
☐ Other (attach explanation)

Length of time used for above purpose:

Years Months

f Date seller acquired _____

g Seller acquired property by:

- ☐ Purchase ☐ 1031 exchange
☐ Gift ☐ Foreclosure
☐ Inheritance ☐ Other _____

h Seller's adjusted basis:

Purchase price \$ _____
 Add: Improvements _____
 Less: Depreciation _____
 Adjusted basis \$ _____

5 Provide all required documentation listed in Section G on page 1 of the instructions. Attach any other documents necessary to verify the adjusted basis. State in detail your reason for requesting a withholding waiver or reduced withholding. Attach additional sheets if needed. The Franchise Tax Board (FTB) cannot make a determination on your request unless you provide all required information and documentation.

Under penalties of perjury, I declare that I have examined this application and accompanying attachments, and to the best of my knowledge and belief, they are true, correct and complete. I authorize the escrow officer to provide the FTB any additional information required to process this request.

Sign Here

Preparer's signature

Title (if applicable)

Date

For Privacy Act Notice, see form FTB 1131 (individuals only).

Do Not Use These Spaces:

Codes: T: _____ A: _____ F: _____ OR: _____ Date received: _____ Int: _____
 Amounts: S: \$ _____ R: \$ _____ Date assigned: _____ Int: _____
 A: \$ _____ 45th day: _____ Int: _____

Instructions for Form 597-A

Nonresident Withholding Waiver Request for Real Estate Sales

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 1998**, and the California Revenue and Taxation Code (R&TC).

General Information

A Purpose

Use **Form 597-A** to apply for a withholding waiver to eliminate or reduce withholding required under R&TC Section 18662 on dispositions of California real estate by nonresidents.

Do not use Form 597-A if you qualify for an exemption as explained in General Information C, Exemptions from Withholding. If you qualify for an exemption, get, complete and sign Form 590-RE, Withholding Exemption Certificate for Real Estate Sales, and give it to the buyer.

To receive a prompt determination on your waiver request, include all the information needed to allow the Franchise Tax Board (FTB) to make a determination. Read the following instructions carefully. Attach all required documents to support your request to reduce or eliminate withholding. See General Information G, What to Include With Form 597-A. Failure to include the required information, signatures and documents can result in either a delay or denial of your request.

B What is Real Estate Withholding?

Real estate withholding:

- Is a prepayment of the amount of tax due from the gain on the sale of California real estate;
- Is not an additional tax on the sale of real estate;
- Is primarily intended to ensure that the tax owed on the taxable gain from the sale will be paid;
- Reduces the likelihood that the seller will be subject to penalties for underpayment of estimated tax; and
- Is similar to wage withholding. As with wage withholding, the amount withheld is claimed as a credit against the tax liability computed at the end of the taxable year.

If the amount withheld is more than the tax liability, the difference will be refunded when a tax return is filed after the end of the taxable year.

C Exemptions from Withholding

To secure an exemption you must sign a Form 590-RE, Withholding Exemption Certificate for Real Estate Sales, and provide it to the buyer.

An exemption from withholding will be granted if:

- The seller/transferor is a resident of California or a corporation with a permanent place of business or qualified to do business in California;
- The total sales price of the California real estate does not exceed \$100,000;
- The seller/transferor is a partnership, limited liability company or bank; or
- The real estate qualifies as the seller/transferor's principal residence under IRC Section 121.

D Who May File This Form?

The seller/transferor or other person related to the transaction may file Form 597-A to apply for a waiver or reduced withholding. R&TC Section 18662 includes provisions that authorize the FTB to grant reduced withholding or to eliminate withholding on a case-by-case basis. Generally, the FTB will reduce or eliminate the required withholding amount when:

- The 3 $\frac{1}{8}$ % withholding exceeds the estimated California tax liability from the sale; for example:

Selling Price	\$250,000
Withholding Rate	x 3.33%
Withhold Amount	\$ 8,325

Gain on Sale	\$50,000
Maximum Tax Rate	x 9.3%*
Tax Liability	\$ 4,650

*The maximum tax rates are 9.3% for individuals and 8.84% for corporations.

The waiver would be granted, reducing the withholding to \$4,650. If the documentation provided shows that no California income or franchise tax will be due from the transfer, a full waiver will be granted.

- The transaction involves an IRC Section 1031 exchange, a foreclosure or an installment sale; or
- The transaction involves multiple sellers, some of whom are nonresidents of California.

E When to File This Form

File Form 597-A as soon as you enter into a contract of sale. The FTB will determine if the withholding should be eliminated, reduced or if the request should be denied. The FTB usually processes applications within 45 days after receipt of all necessary information. If a response from the FTB has not been received by the time title is transferred, the parties to the transaction may direct the escrow person to hold funds for withholding in trust up to 45 days from the date title is transferred.

If Form 597-A is not filed timely with the FTB and title passes to the buyer/transferee before the application can be processed, withholding of 3 $\frac{1}{8}$ % is required. There is no provision to authorize an early refund after title has passed to the buyer/transferee and the withholding has been remitted to the FTB.

Any withholding waiver issued by the FTB applies only for the limited purpose of determining the withholding obligation under R&TC Section 18662. The withholding waiver would not apply for other issues that may arise in connection with the transfer. The FTB may accept evidence submitted with a waiver request for the purpose of issuing the withholding waiver; however, this evidence may not be adequate for other issues related to the transfer.

If you receive a determination letter from the FTB reducing the amount of withholding, you must enter the confirmation number from the FTB determination letter on Form 597, Nonresident Withholding Tax Statement for Real Estate Sales when payment is sent to the FTB.

Note: Do not send a payment with Form 597-A.

F Where to File This Form

Mail or FAX Form 597-A to:

ATTN: REAL ESTATE WITHHOLDING WAIVER
NONRESIDENT WITHHOLDING SECTION
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651

FAX: (916) 845-4831

G What to Include with Form 597-A

Below is a list of the minimum documentation required for the FTB to make a determination.

This is a general guide. We may request additional information on a case-by-case basis.

- **Loss or Small Gain**
 - The sales escrow document (estimated closing statement, sales contract or closing statement).
 - Purchase escrow document (closing statement) from the original transaction.
 - List of any improvements and related costs.
- **Inherited Property**
 - The sales escrow document (estimated closing statement, sales contract or closing statement).
 - The court documents showing the fair market value of the property at the time of inheritance, or the death certificate if the death occurred less than one year ago.

If the property was inherited more than two years ago, on the front of the 597-A also:

 - State whether the property was a rental. If yes, state how long it was rental property.
 - List any improvements since the date of inheritance and related costs.
- **1031 Exchange**
 - Completed California Form 597-B, Non-resident Withholding Exchange Affidavit. **Be sure to include all required signatures.**
 - The sales escrow document (estimated closing statement, sales contract or closing statement).
 - On Form 597-B indicate the basis of the property being sold.
 - On Form 597-B indicate the state where the replacement property is located.
- **Installment Sales**
 - Completed California Form 597-C, Non-resident Withholding Installment Sale Agreement. **Be sure to include all required signatures.**
 - The sales escrow document (estimated closing statement, sales contract or closing statement).
 - Purchase escrow document (closing statement) from the original transaction.
 - The note agreement.
 - List of any improvements and related costs.

• **Reacquired Property (Foreclosure or Repossession)**

- The current sales escrow document (estimated closing statement, sales contract or closing statement).
- The original sales escrow document from the first time you sold the property prior to foreclosure.
- The original purchase escrow document (closing statement) from when you originally purchased the property.
- Statement of the amount of cash (down-payment) received on the original sale prior to foreclosure.
- Statement of the amount of notes received or carried prior to foreclosure. Provide a copy of the note carried.
- Statement of the balance due remaining on the note.
- List of the foreclosure costs (the costs to get the property back).
- List of any improvements and related costs.
- The calculation of the gain from the original sale.
- A copy of federal Form 6252, Installment Sale Income, or California form FTB 3805E, Installment Sale Income, filed with your tax return in the year of the original sale.
- Deed in lieu of foreclosure or trustee's deed upon sale.

H Where to get Publications, Forms and Additional Information

For more information on real estate withholding, get FTB Pub. 1016, Nonresident Withholding — Real Estate Guidelines. FTB Pub. 1016, nonresident withholding forms and other tax forms are available on the FTB website at <http://www.ftb.ca.gov> on the Internet.

Once you access the website, select Tax Forms from the menu, then select the form number you need. For nonresident withholding and other miscellaneous publications, select Miscellaneous California Forms, Instructions and Publications.

Nonresident withholding forms may also be obtained via Forms-by-Fax by calling (800) 998-3676. To order publications or forms or to get additional nonresident withholding information, please contact the Nonresident Withholding Section at the address or automated telephone number below:

NONRESIDENT WITHHOLDING SECTION
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651
Telephone: (916) 845-4900
FAX: (916) 845-4831

For information, forms and publications not related to nonresident withholding, access the FTB website at the Internet address above or call the FTB general toll-free service at:

From within the United States ... (800) 852-5711
From outside the United States .. (916) 845-6500
For hearing impaired with TDD .. (800) 822-6268

I Final checklist

- All requested signatures are required and must be included on the application. The FTB cannot make a determination on your request unless you provide all required information and documentation.
- If you send your request by fax, **do not** send the original request by mail.
- Please wait 10 working days after faxing your request and 13 working days after mailing your request before calling to find out the status of your request.

Specific Line Instructions

Read and follow the instructions carefully. Attach all required information to your request.

Line 1 — Enter the name, address, ownership percentage, telephone number, entity type and tax ID number of the seller/transferor for whom the waiver is being requested. If there is more than one seller, attach a separate sheet listing the tax ID number, entity type, name, address, ownership percentage, California residency status of each seller and whether or not each non-resident seller should be included in this waiver request. If the sellers are husband and wife, enter both names on line 1 and include the spouse's social security number in the boxes provided.

Line 2 — Enter the name, address and tax ID number of the buyer/transferee. If there is more than one buyer, attach a separate sheet listing name, address and tax ID number of each buyer involved in the sale. If the buyers are husband and wife, enter both names on line 2 and include the spouse's social security number in the boxes provided.

Line 3 — If an escrow company is assisting you with the withholding, **be sure** to include the escrow company's name, address and tax ID number and the escrow officer's name, telephone number and fax number. Upon making a determination, the FTB will fax a copy of the determination directly to the escrow company, if a fax number is provided.

Line 4a through Line 4h — Enter the appropriate information.

- a. Enter the property address, including city and zip code. If no street address is available, enter the parcel number and county.
- b. Enter the escrow number of this transaction.
- c. Enter the date escrow closed, or if escrow has not closed, the estimated date escrow will close.
- d. Enter the contract price (total sales price) for the current property transfer.
- e. Check the box that indicates the use of the property at the time of sale. State the period of time it was used for this purpose.
- f. Enter the date purchased. If acquired by a method other than purchase, (e.g., inherited, gifted, foreclosed upon, etc.) please explain and attach additional sheets if necessary.
- g. Check the box that indicates how the seller acquired the property. Attach additional sheets if necessary.
- h. Enter the adjusted basis of the property. The adjusted basis is the original purchase price, increased by capital improvements and other additions and decreased by allowed or allowable depreciation (if used as a rental or for

business) and any gains deferred under IRC Section 1031 and former IRC Section 1034. **Note:** Additional mortgages on the property, in and of themselves, do not increase your adjusted basis.

Line 5 — Provide documentation of the adjusted basis such as purchase escrow statement and a schedule of improvements and depreciation. See General Information G, What to Include with Form 597-A. Be sure to include all information listed that applies to your situation. If a specific item is not available, provide an explanation. Provide copies only. **Do not** send original documents.

Signature and Title — The preparer must sign the application. Enter the preparer's title or relationship to the transaction.